

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF NORTH CAROLINA**

IN THE MATTER OF: ) No. B-10-80069 C-13D  
Gina K. Setzer )  
 )  
Debtor(s) )

**ORDER GRANTING MODIFICATION OF PLAN AND  
LIFTING OF THE AUTOMATIC STAY**

On May 5, 2011, a hearing was held on the Motion by the Debtor to modify her Chapter 13 plan, pursuant to 11 U.S.C. §1329, to release property known as 1412 Vickers Ave., Durham, NC (“the real property”) to the lienholder, Everhome Mortgage Co. (“Everhome”). At the hearing, Edward C. Boltz, Esq. appeared on behalf of the Debtor, and Richard M. Hutson II, Standing Trustee appeared. No other party appeared or objected to the Motion. The Court, after considering the Motion and having heard and considered the statements of counsel and the Trustee, finds that there is sufficient evidence of a substantial change in the Debtor’s circumstances and that the modification complies with the provisions of 11 U.S.C. §1325; therefore, it is ORDERED:

1. The Motion by the Debtor pursuant to 11 U.S.C. §1329 is granted.
2. The automatic stay is modified to permit Everhome and any junior lienholder to foreclose upon the real property.
3. Any surplus equity above and beyond valid liens derived from the sale of the real property shall be paid to the Standing Trustee for application to the Debtors’ plan.
4. In the event of a deficiency, Everhome and any junior lien holder shall have 180 days from the entry date of this Order within which to file documented deficiency claims for any deficiency realized from the sale of the real property and failure to file documented deficiency claims within such time will result in the release of the real property being in full satisfaction of the indebtedness due Everhome and any junior lienholder and the Debtor’s liability.
5. The stay of this Order under Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure is not applicable.
6. The Debtor’s plan payments are scheduled at \$272.00 per month beginning April, 2011, and shall continue until all secured and priority claims are paid in full and the applicable commitment period is satisfied.

7. Any default in payments prior to April, 2011, under the plan is waived and the plan shall be extended to the term necessary to pay the delinquent amount.

8. Johh T. Orcutt, Esq. is allowed the presumptive fee of \$250.00 for services rendered in the filing of this Motion which shall be paid through the Debtor's plan.

**PARTIES IN INTEREST**

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**ALL PARTIES OF RECORD AS OF THE DATE OF THE ORDER SHALL BE  
SERVED BY THE BANKRUPTCY NOTICING CENTER**